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8 Attorneys for Plaintiff

9 **RECEIVED**

UNITED STATES DISTRICT COURT

10 MAY 17 2007

NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12 13 UNITED STATES OF AMERICA,

) No. 07-70225 PVT

14 Plaintiff,

) STIPULATION AND [PROPOSED]
ORDER CONTINUING PRELIMINARY
HEARING OR ARRAIGNMENT DATE
AND EXCLUDING TIME

15 v.

16 ARIEL ARELLANO DIAZ,
a/k/a ANTONIO JUAN GOMEZ,

17 Defendant.

18 SAN JOSE VENUE

20
21 The undersigned parties respectfully request that the preliminary hearing or arraignment in
22 the above-referenced case be continued from May 18, 2007 at 1:30 p.m. to June 28, 2007 at 1:30
23 p.m. before the Honorable Judge Trumbull. The reason for the continuance is that Miguel
24 Hernandez, who represents the defendant, needs additional time to investigate the case and
25 consider a pre-indictment resolution that the government has offered him. In addition, the parties
26 request an exclusion of time under Rule 5 of the Federal Rules of Criminal Procedure and the
27 Speedy Trial Act from May 18, 2007 to June 28, 2007. The parties agree and stipulate that an
28 exclusion of time is appropriate based on the defendant's need for effective preparation of

FILED

MAY 18 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

1 counsel.

2 SO STIPULATED:

SCOTT N. SCHOOLS
United States Attorney

3
4 DATED: _____

/s/
SUSAN KNIGHT
Assistant United States Attorney

5
6 DATED: _____

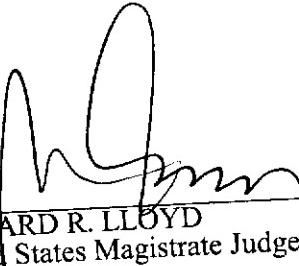
/s/
MIGUEL A. HERNANDEZ
Counsel for the defendant

7
8 Accordingly, the Court HEREBY ORDERS that the preliminary hearing or arraignment is
9 continued to June 28, 2007 at 9:30 a.m. before the Honorable Judge Trumbull. Good cause
10 is shown and the continuance is proper under Rule 5 of the Federal Rules of Criminal Procedure
11 and 18 U.S.C. § 3060.

12
13 For good cause shown, the Court FURTHER ORDERS that time be excluded under the
14 Speedy Trial Act from May 18, 2007 until June 28, 2007. The Court finds, based on the
15 aforementioned reasons, that the ends of justice served by granting the requested continuance
16 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant
17 the requested continuance would deny defense counsel reasonable time necessary for effective
18 preparation, taking into account the exercise of due diligence, and would result in a miscarriage
19 of justice. The Court therefore concludes that this exclusion of time should be made under 18
20 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

21 SO ORDERED.

22
23 DATED: 5/18/07

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27
28

HOWARD R. LLOYD
United States Magistrate Judge